

**PERSONNEL POLICY**

DATE OF ISSUE

8-28-98

EFFECTIVE DATE

9- 12-98

NUMBER

308-3

SUBJECT

Policy Series 300:  
308 - Internal Affairs Investigation

AMENDS

REFERENCE

P.I .-Citizen Complaint Policy  
and Procedure

RESCINDS

Policy 308-2

**I. INTRODUCTION**

- A. All department members are expected and required to observe high standards of moral and ethical conduct at all times.
- B. The department has established certain guidelines that not only provide for consistency in investigations, but assure department members of their right to fair and equitable treatment during internal investigations.

**II. POLICY**

- A. The Internal Affairs Unit shall conduct investigations into the following incidents:
  - 1. Allegations of misconduct filed through the Office of Citizen Complaints that are forwarded for investigation by the Director of the Office of Citizen Complaints.
  - 2. Disarming of an officer, discharge of a firearm by a member, and discharge of a member's service firearm by a non-department member.
  - 3. Allegations of sexual harassment that are forwarded by the Chief of Police for investigation.
  - 4. Miscellaneous investigations, to include commendation and honor awards and all other investigations directed by the Chief of Police.
- B. The member's version of the incident will be given during the Internal Affairs Unit investigation. If an investigation is discontinued, it will not be necessary for the member to make any statements.
- C. All members involved in an internal investigation will be treated with courtesy and dignity throughout the investigation.
- D. Notification

The member will be informed of the nature of the investigation and of the names of all complainants prior to the interview, unless the Chief of Police approves a decision to dispense with notice prior to the interview.

**E. Scheduling of interviews**

1. The time and place for any interview will be determined by the Internal Affairs detective. Every effort will be made to schedule interviews with members during their on-duty hours.
2. If necessary for a member to accompany an Internal Affairs detective, every effort will be made to avoid embarrassing the member.

**F. Interview Session**

1. A member under investigation will be informed of the name and rank of the interviewing officer and all other persons present during the interview. All questions directed to the member will be asked by and through one detective.
- 2. Members giving statements or being questioned concerning internal matters may not have an attorney or other representative present during the interview. The detective will provide the member with a Garrity Warning before a formal statement is obtained.
3. Members are not permitted to discuss any ongoing investigation with any other department members or discuss the actual interview until completion of the investigation. For such reasons, members giving statements will not tape record or attempt to acquire all or any part of their statement through use of electronic devices, or take notes, either openly or surreptitiously.
4. A member's supervisor or commander will not be present when a statement is being given.
5. The line of questioning of members will be pertinent to the issues of the complaint. If the member's responses indicate the violation of a department rule or the law by the member or by other members, in instances not associated with the matter being investigated, a new avenue of inquiry may be pursued.
6. Interview questions will be within the area of knowledge thought to be possessed by the member. No devious techniques or accusatory statements will be used.
7. If an interview extends through a normal meal period, the member being interviewed will be afforded the opportunity to order food and eat it in a quiet atmosphere without continuation of the interview. Members will be granted opportunities to satisfy other personal needs at all times.

8. When it is necessary to conduct an internal investigation beyond a normal tour of duty or during off-duty time, the member involved may make telephone calls to such persons the member believes may need information about the delay. The member may be requested to refrain from discussing the subject of the investigation. The Chief of Police must approve any restriction against telephone calls being made.
9. The investigatory method is the prerogative of the Internal Affairs detective. Under normal circumstances, a statement will be taken from the complainant prior to department members or witnesses.
- 10. When a member refuses to answer questions, the Internal Affairs detective will continue to ask other questions pertinent to the investigation. The detective will return to the unanswered questions and if the member still refuses to answer, the detective will stop the interview. A commander, sergeant, or supervisor will direct the member to answer questions. If the member still refuses to answer the questions, the commander, sergeant, or supervisor may immediately suspend the member, pending further review and action by the Chief of Police.
11. As directed by the Internal Affairs detective, a member is required to furnish a signed statement(s) with regard to internal investigations. If the member refuses to sign the statement, a commander, sergeant, or supervisor will direct the member to sign the statement. If the member still refuses, the commander, sergeant, or supervisor may immediately suspend the member, pending further review and action by the Chief of Police.
12. If a member wishes to change any statement(s), the change will be included on a supplemental statement, and the signed original will be retained in the case file.

#### **G. Polygraph Examination**

1. The Chief of Police may direct any member to submit to a polygraph examination to clarify any department matter concerning a department investigation. Presence of counsel will not be permitted during such examination.
2. If a member refuses a polygraph examination as directed, the member may be suspended for refusing to obey an order pending further review and action by the Chief of Police.
3. The polygraph examination should not, as a general rule, be given to an individual who has just completed a lengthy interview session or who is not, in the judgment of the polygraph examiner, physically or mentally fit to be examined.

4. A member will not be subjected to accusatory statements during the polygraph examination,

#### **H. Criminal Law Violations**

1. If, during the course of an Internal Affairs investigation, it appears there is, or may have been, a violation of criminal law, the investigation will be suspended pending a determination as to whether the investigation will proceed as a criminal or internal investigation. The Chief of Police will make the determination.
2. The appropriate criminal investigative division will be notified and will assume responsibility when a criminal investigation is determined to be necessary. When the criminal investigation aspect of the case is concluded and there is need for additional internal investigation, the Internal Affairs Unit will resume investigation of the case.

#### **I. Field Response by Internal Affairs Detectives**

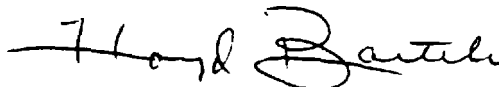
If an incident of a non-criminal nature occurs in which circumstances require immediate investigation involving transient witnesses or other unique problems and it is after the regular office hours of the Chief of Police, a bureau commander, night duty commander, division commander, or city-wide duty officer may request the immediate response of an Internal Affairs detective.

#### **J. Access to Internal Affairs Files**

1. Upon completion of the investigation, members may, with approval of the Internal Affairs Unit commander, obtain a copy of their statement concerning a miscellaneous investigation. Attempts to obtain copies of statements or parts thereof, in any other manner, will not be permitted.
2. Access to a completed miscellaneous investigation file will be strictly controlled by the Chief of Police.
3. Upon request, a completed investigative file resulting from an OCC complaint may be reviewed as outlined in the current Procedural Instruction titled Citizen Complaint Policy and Procedure.
- \* 4. Records, files, documents, and items compiled and maintained by the Internal Affairs Unit pertaining to miscellaneous investigations or investigations resulting from citizen complaints shall not be subject to disclosure to the public, except as authorized by resolution of the Board of Police Commissioners.

**\*III. PROCEDURE**

- A. To notify a member of a pending investigation, Internal Affairs personnel will interdepartment mail a Form 5272 P.D., Notification of Internal Investigation, in a sealed envelope, to the member's division commander. If applicable, a copy of Form 337 P.D., Citizen Complaint Report, will be attached.
- B. The member's supervisor/commander will ensure the member receives the Form 5272 P.D., and Form 337 P.D., if applicable.
- C. Upon receipt, the member will sign the form and enter serial number and date.
- D. The supervisor/commander will sign (and enter serial number) to witness the member's signature. The supervisor/commander will then return the signed Form 5272 P.D., and attached Form 337 P.D. if applicable, in a sealed envelope, to Internal Affairs Unit for inclusion in the investigation file.
- E. Internal Affairs Unit will notify the Chief of Police of the results of any miscellaneous investigation.



Floyd O. Bartch  
Chief of Police

Adopted by the Board of Police Commissioners this 28<sup>th</sup> day  
of August, 1998.



Dr. Stacey Daniels  
Vice President